

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

J.P.T. AUTOMOTIVE, INC.
d/b/a Victory of Five Towns

Plaintiff

v.

TOYOTA MOTOR SALES, U.S.A., INC.

Defendant

Civil Action No. 09-CV-204-JS-ETB

Hon. Joanna Seybert
Hon. E. Thomas Boyle

DECLARATION OF CARL J. CHIAPPA

I, **CARL J. CHIAPPA**, declare as follows:

1. I am a member of the law firm of Hogan & Hartson LLP, counsel for Toyota Motor Sales, U.S.A., Inc. (“Defendant”) in the above-captioned matter. I am admitted to practice before this Court.

2. I submit this Declaration in support of Defendant’s Memorandum of Law in Opposition to Plaintiff’s Motion for a Preliminary Injunction. I am personally familiar with the facts stated herein.

3. A true and correct copy of the cited portions of the transcript of the deposition of Richard Cirillo, taken on March 24, 2009, is attached hereto as Exhibit 1.

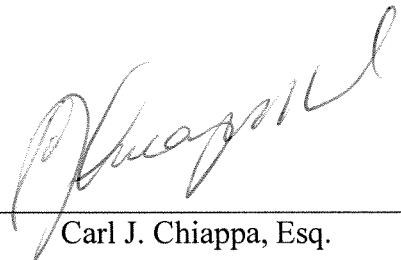
4. A true and correct copy of the cited portions of the transcript of the deposition of Edward DiGilio, taken on March 24, 2009, is attached hereto as Exhibit 2.

5. On March 18, 2009, I received a letter from the attorney representing the Burnside Avenue Garage, stating that two vehicles I had identified as owned by Toyota were in fact “owned and titled to Burnside Avenue Garage, title having been issued on both vehicles,

following a noticed auction sale, on March 12, 2009.” A true and correct copy of that letter is attached hereto as Exhibit 3.

6. On or about February 20, 2009, the Nassau County Supreme Court issued an “Order To Show Cause And Temporary Restraining Order” which, among other things, barred Plaintiff’s dealership from selling its new vehicle inventory in any manner inconsistent with M&T Bank’s interest in such inventory. A true and correct copy of that order is attached hereto as Exhibit 4.

Dated: New York, New York
March 29, 2009



Carl J. Chiappa, Esq.